

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

GREGORY MICHAEL LEWIS,
10124152,

Plaintiff

vs.

D.B.I. SERVICES, ET AL.,

Defendants.

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CIVIL ACTION
NO. SA-19-CA-662-DAE

ORDER

Before the Court is the Application for Leave to Proceed *In Forma Pauperis* [#2] filed by the plaintiff, Gregory Michael Lewis (“Plaintiff”), in this civil action. Plaintiff is currently in the custody of the Nueces County Jail. As ordered by the Court, Plaintiff supplemented his IFP application with his Nueces County Jail inmate trust fund statement [#13]. After review of Plaintiff’s IFP application and the trust fund statement, the Court has determined that his request to proceed IFP [#2] is **GRANTED**.

The United States Clerk of Court (“the U.S. Clerk”) is directed to file Plaintiff’s Complaint [#1] without prepayment of fees, costs, or security, and also to mail a copy of this Order to the Jail Administrator, Nueces County Jail, 901 Leopard Street, Corpus Christi, Texas 78403.

Even though Plaintiff is not required to prepay his filing fees, a prisoner who brings a civil lawsuit IFP is subject to paying an initial partial filing fee, and then paying monthly

installments until the total **\$350.00** filing fee is paid in full.¹ These payments will be automatically processed by Plaintiff's custodial institution.

I. Initial Partial Filing Fee.

The Court is required to "assess and, when funds exist, collect," an initial partial filing fee of "20 percent of the greater of the average monthly deposits to the prisoner's account; or the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint." *See* 28 U.S.C. § 1915(b)(1)(A)(B).

Ordinarily, the Court assesses an initial filing fee, and then the Nueces County Jail must deduct this sum from Plaintiff's institutional trust fund account and forward it to the U.S. Clerk, 655 E. César E. Chávez Boulevard, Room G65, San Antonio, Texas, 78206, referencing the case number in the style of this Order. If funds are not immediately available to cover the amount of the assessed initial fee, then the Nueces County Jail must place a hold on Plaintiff's account in the amount of the initial assessment and forward the funds to the U.S. Clerk when available. But here, Plaintiff has been indigent for the six months prior to the filing of his application, and therefore the Court will not assess an initial filing fee.

II. Remaining Filing Fee Monthly Deductions.

"After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of court each time the amount in the account exceeds \$10 until the filing fees are paid." 28 U.S.C. § 1915(b)(2). Thus, the Nueces County Jail must forward funds to the

¹ The filing fee for any civil action, suit or proceeding is \$350.00. There is normally an administrative fee of \$50.00, however, when a prisoner is granted IFP status, the \$50.00 administrative fee is waived.

Court in accordance with this provision to the address and with the information that is explained in the previous paragraph.

IT IS SO ORDERED.

SIGNED this 17th day of July, 2019.



The image shows a handwritten signature in black ink. The signature consists of the letters "Ely S. Chestney" written in a fluid, cursive style. Below the signature, there is a printed name in a standard font.

ELIZABETH S. ("BETSY") CHESTNEY
UNITED STATES MAGISTRATE JUDGE